

## Q & A on Trump's discriminatory ban on refugees

Please contact your community organiser if you need more information.

**1. Overview** of the US President's Executive Order on '*PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES*' - see [BBC article](#)

### **2. Background on Executive Orders**

Executive Orders are a controversial tool of presidential power because they are an assertion of binding law by one person. While they are subject to judicial review and can be challenged by an act of Congress, they are difficult to void. For example, Congress can pass an act that runs counter to an Executive Order, which the president would almost certainly veto. However, a supermajority of each house (2/3 of the members in each house) must vote to overturn any presidential veto. This is obviously extremely hard to achieve. Courts will be deferential in areas of national security. A president can void a previous president's Executive Orders through issuance of a new Executive Orders.

### **3. Why is Amnesty International concerned about this Executive Order?**

This Executive Order bans the resettlement of any Syrian refugees to the USA and introduces provisions that temporarily – and very likely permanently – bar refugees (and all nationals) of other countries that are important source countries for refugees, including Iran, Iraq, Sudan, Libya, Somalia and Yemen. *(based on the provision: "The Executive Order states that "the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12) would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order..."")*

The Executive Order says that the ban on Syrian refugees will remain in place until the President is satisfied that sufficient changes have been made to the US Refugee Resettlement programme to ensure it is "aligned with national interests." This is an extremely vague and arbitrary provision and Syrians are singled out from all other potential refugees.

The world is currently faced with the most severe refugee crisis in decades. It is hard to overstate the consequences of ending the resettlement of any of these people to one of the wealthiest and most influential countries in the world – it would be catastrophic.

### **4. Is what President Trump has done lawful under international human rights law?**

No. The United States of America is bound by numerous provisions of international human rights law that ban discrimination – either direct or indirect. This Executive Order discriminates directly on the basis of country of origin, and would also almost certainly have the effect of discriminating on the basis of religion; the countries whose nationals could be barred based on the provisions in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12) – Syria, Libya, Iraq, Iran, Yemen, Sudan and Somalia – are predominantly Muslim. Nationals of these countries are barred from entry for 90 days from the date of the Executive Order and it remains to be seen whether the same countries are put on the list of Countries of Concern.

## **5. What are the implications for refugees around the world?**

Today, more than one million refugees are considered by UNHCR (the UN Refugee Agency) to be vulnerable and urgently in need of a process called “resettlement,” whereby they can start their lives in safety in other countries. Vulnerable refugees include survivors of violence and torture, women and girls at risk, and those with serious medical needs.

Most of the world’s refugees are currently living in dire situations in developing countries. At present, just 10 countries, which account for less than 2.5% of world GDP, host 56% of the world’s refugees. This includes Jordan and Turkey, which both host over 2 million refugees, and Lebanon and Pakistan, which host over 1 million.

This is why we need an effective system for sharing responsibility fairly, and resettlement is a key part of that system. Today only around 30 countries run some kind of refugee resettlement programme, and the number of places offered annually falls far short of the needs identified by the UN.

The USA has a longstanding, bipartisan tradition of welcoming refugees, and has played an important and constructive role in global resettlement.

Furthermore, this Executive Order might have wider implications by encouraging host countries – if they feel abandoned by “resettler” countries like the USA – to continue (or start) expelling large numbers of refugees to their country of origin. Also, vulnerable refugees trapped in unbearable situations in host countries, who know they will never be resettled, might feel like they have no choice but to return to their countries of origin.

Given the recent resurgence of racism, Islamophobia and xenophobia across many parts of Europe, there is no doubt that some political leaders will try to emulate this Executive Order, and may well succeed.

No government, in Europe or elsewhere, should join the USA on this blatantly discriminatory, hateful path. Europe’s experience of the horrors of the Second World War is precisely what gave rise to the 1951 Refugee Convention. For Europe to follow the USA in forsaking the international protection regime set up by that international instrument, would be shockingly hypocritical.